

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION,

Plaintiffs,

vs.

NATIONAL FOOTBALL LEAGUE,
et.al,

Defendants.

No. 2:12-md-02323-AB
MDL No. 2323

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**REQUEST TO BE HEARD AT SEPTEMBER 19, 2017 HEARING,
AND MOTION FOR LEAVE OF COURT TO SUBMIT A SHORT
STATEMENT OF INFORMATION AND EVIDENCE
FOR THE HEARING DUE TO HURRICANE IRMA**

Pursuant to the July 19, 2017, Notice and Order (Document Number 8037), and Federal Rule of Civil Procedure 6(b)(1), the undersigned Plaintiffs' counsel hereby gives notice that Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm, Request the Opportunity to be Heard at the September 19, 2017, Hearing and file their Motion for Leave of Court to Request that Appearance and to Submit a Short Statement of Information and Evidence beyond the September 12, 2017, Deadline Due to the Effects of Hurricane IRMA; and state as follows:

1. The July 19, 2017, Order of this Court set a September 12, 2017, deadline to submit a request to be heard as well as a short statement of information to be presented at the September 19, 2017, hearing to be held in Philadelphia. On or about September 6, 2017, it was determined a Category 5 Hurricane was approaching the State of Florida. Accordingly, many courts in the affected areas of the State made the decision to be closed on September 8 and 11, 2017, including those courts in the Tampa Bay area. By that date, however, many people in the State had already evacuated the areas the storm would most likely hit and others were preparing for that storm. After the storm passed, on information and belief, damage was inflicted across a large swath of the State and nearly two thirds of the State was without power. Under the circumstances, Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm, located in Tampa, Florida, the path of the storm, request leave of court after the deadline to request an appearance and to submit a short statement of information and evidence to be presented at the September 19, 2017, hearing before this Court. See Pioneer Investment Services v. Brunswick Associates, 507 U.S. 380, 394 (1993)(noting the enlargement of a court deadline out of time due to excusable neglect from an act of God or some other circumstance beyond their control).

2. With regard to the short statement of information to be presented, the undersigned ask to present to the Court the importance of outside counsel in assisting retired players with the Amended Settlement Agreement and to stress that time is of the essence for these former players to receive their monetary awards. Regrettably, former NFL player, Thomas Johnson "John" Reaves died while waiting for his claim to be reviewed. The welfare of these players should be of a paramount concern so measures must be taken to ensure their claims are not unreasonably delayed. If the importance of non-class counsel and the timely receipt of payments to serve the welfare of the players are not addressed at the September 19, 2017, hearing, these matters should

be specifically reserved for a later date to preserve the right of the former players represented by Neurocognitive Football Lawyers, PLLC, to have due process and the opportunity to be heard. In addition, and in an abundance of caution, Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm request that the Seeger Weiss law firm, as Co-Lead Class Counsel, exercise their fiduciary duty to the players and present these concerns in their initial presentation at the September 19, 2017, hearing so that these issues are addressed and preserved for further review and action.

3. Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm also wish to state their support in curtailing any predatory practices or deceptive practices that target Settlement Class Members. However, Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm are concerned there is a tendency to lump non-class counsel representing former players outside the BAP process with those few lawyers or finance companies engaging in the predatory practices that are of concern to the court.

4. The Amended Settlement Agreement was thoughtfully prepared and it imposed elaborate testing requirements to receive the monetary rewards contemplated therein. Most importantly, that Amended Agreement provided former players with the freedom to participate in the BAP or the Pre-BAP process.

5. Many players elected to retain separate non-class counsel and proceed with the Pre-BAP process. Unfortunately, as a review of the court file will confirm, the Claims Administrator has effectively amended the Amended Settlement Agreement by requiring these retired players to submit “documentary evidence” (by affidavit or medical records) “that existed before the date of the Qualifying Diagnosis.” Had a player proceeded with the Pre-BAP process

without counsel as many were advised to do,¹ that player would have no knowledge of that determination or how to effect compliance with that determination because it is not specified in the Amended Settlement Agreement. In addition, as confirmed by a review of the court file, the Claims Administrator has also been issuing deficiency notices that have effectively made other revisions to the Amended Settlement Agreement.

6. In our own experience, former NFL Player Donnell Woolford was issued a deficiency notice stating he needed to submit a “neuropsychological test report” because he had an atypical presentation and he came to his evaluation unattended. Former player Woolford is available to testify that this is not true. He was attended by a third party at his evaluation. Player Woolford could also testify he submitted a comprehensive report of neuropsychological testing and this deficiency is not supported by the record. Former NFL Player Lionel Washington was also issued a deficiency notice requesting a “neuropsychological report” as well as an MRI report because there was an incongruity between one test result and his report of a severe cognitive decline. Former Player Washington is also available to testify that he did submit these documents with his claim package.

7. Other former players represented by Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm have encountered similar problems. Two former players of the two hundred claims packages submitted by this group were actually provided with a Notice of Monetary Award Claim Determination. Although the Amended Settlement Agreement provides that 10% of the awards can be audited, as well as for other reasons, both of the approved claims have received audit notices effectively delaying their claim award beyond the anticipated forty-five (45) day time frame.

¹ See June 22, 2017, E-Mail from the Atlantic Health Jets Training Center (Exhibit A).

8. Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm, would appreciate the opportunity to present evidence showing that no (or very few) claims have been paid to any former player in the more than six months since claims packages have been submitted in the Pre-BAP process. Evidence should also be presented to determine the number of audits that have been demanded for any former players who have received a determination of a monetary award.

WHEREFORE, Neurocognitive Football Lawyers, PLLC, and The Yerrid Law Firm, request the following relief: (a.) the opportunity to present a brief statement no longer than ten minutes at the hearing on September 19, 2017; and (b.) the opportunity to present evidence on behalf of approximately two hundred former NFL Player-Claimants at any subsequent hearing as a matter of procedural due process.

Dated: September 14, 2017

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R Gonzalez", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2017, I caused the foregoing Request to be electronically filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, and that the filing is available for downloading and viewing from the electronic court filing system by counsel for all parties.

/s/ Ralph L. Gonzalez
Ralph L. Gonzalez, Esq.
The Yerrid Law Firm

From: Kirby, Ashley <AKirby@Jets.nfl.com>
Sent: Thursday, June 22, 2017 1:44 PM
To: Kirby, Ashley
Subject: NFL Concussion Settlement Deadline

Good morning,

Just a reminder that the NFL Concussion Settlement deadline (**August 7th, 2017**) is quickly approaching. It is important to register to participate in the settlement and be eligible for benefits.

The league recommends that you **DO NOT** need to hire an attorney to represent you and here's why:

- As part of the settlement an attorney was already appointed to represent on behalf of the players and he's assisting at no charge so adding another layer of attorneys and fees is only hurting him at this point.

Below are four ways to sign up:

- Go to www.nflconcussionsettlement.com and click on the Register Now button to begin.
- Call [1-855-887-3485](tel:1-855-887-3485) to request a paper Registration Form.
- Email ClaimsAdministrator@NFLConcussionSettlement.com.
- Write to NFL Concussion Settlement, P.O. Box 25369, Richmond, VA 23260 for a Registration Form.

Please don't hesitate to reach out if you have any questions at all.

Best,
Ashley

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